

15. (Amended) A marketing system according to claim 1, wherein [said] a sell sets a minimum immediate purchase price.

REMARKS

By the foregoing Amendment, Claims 1 and 15 are amended. Entry of the Amendment, and favorable consideration thereof is earnestly requested.

The Examiner has required Applicants to elect from one of numerous Groups of claims. Applicants have provisionally elected to prosecute Group I (Claims 1-30) at this time. Applicants hereby affirm the provisional election.

The drawings have been objected to as failing to comply with 37 CFR 1.84(p)(5) as including reference signs not mentioned in the description. Enclosed herewith are two copies of substitute Figures 1 and 2, one clean copy and one copy showing changes thereto made in red.

Claim 15 has been objected to due to an informality. Claim 15 has been amended to obviate this objection.

The Examiner has rejected all claims under either 35 U.S.C. §102(e) or 35 U.S.C. §103(a) as being unpatentable in view of Walker (U.S. Patent No. 6,119,100), Egghead (web page of Egghead.com), Freeny (U.S. Patent No. 6,513,016) and Geiger (U.S. Patent No. 6,434,536), either alone or in various combinations. Applicants respectfully request that the Examiner reconsider these rejections in light of the above Amendments and the below Remarks.

The present invention is directed to a web-based system for liquidating excess, returned, inventory of slow moving products to maximize gross profit. The system has a variable pricing strategy for enabling quick liquidation of unsold or returned inventory items. The pricing strategy is interactive, and includes a flexible current price, an open order mechanism, a facility for a demand price and a buyer auction scheme. Sellers interact with the system to set minimum prices and permitted increments of changes in price when prices vary. Buyers can choose to acquire a certain amount of a product at the current price, or set an amount they are willing to pay after a particular period of time. Sellers can adjust prices based on buyer responses and arrive at an optimal pricing strategy over a given period of time to meet their requirements for inventory liquidation. The system permits the liquidation of excess or returned inventory in a desired amount of time with an improved recovery price.

Claim 1, the only pending independent claim, has been amended to require, among other limitations (1) that the immediate purchase price conditionally decreases over time, and (2) that at least one of the pricing schemes permits buyers to request a deferred purchase when a user-defined deferred purchase price matches a decreased immediate purchase price. Applicants respectfully submit that these limitations are not disclosed, taught or suggested by and of the cited prior art, nor any prior art of which they are aware.

Walker discloses a store controller which stores a series of prices for a product and respective effective periods during which the prices are effective. A customer submits an offer to buy the product at an "offer price" that is one of the series of prices. The offer also has an offer period that elapses when the respective effective period of the product price elapses. The offer period thereby defines a period during which the offer is effective and after which the offer cannot be accepted. Thus, the store controller specifies a multi-tier decreasing price structure where the price is valid for a set period of time, after which it is lowered to the next tier. For example, the price for a product may be set at \$10.00 if from January 1, 1999 - January 31, 1999, and then \$7.50 from February 1, 1999 - February 28, 1999. A customer shopping in January could either immediately purchase the product for \$10.00, or could gamble that inventory will remain as of

February 1, 1999 and purchase the product for \$7.50 subject to the condition that inventory remains.

However, the deferred purchase price (i.e., the \$7.50 price in the above example) is set by the store controller (or by the store manager, store employee, etc.). It is never set by the customer or user, as is required by all claims, as amended. As such, Walker cannot anticipate any pending claim of the present application. Moreover, it would not be obvious to modify Walker to arrive at the claimed invention, and in fact, Walker expressly teaches away from such a modification. Walker states, at Column 4, Lines 38-46 as follows:

By requiring the customer to offer at a price selected from one of the series of seller-determined prices, rather than at an arbitrary price selected by the customer, the seller overcomes customer reluctance to select a reasonable offer price. Selecting one of a few seller-defined prices reasonably assures the customer that he has not inadvertently submitted an offer that is too low to ever be accepted or too high to be a "smart" offer.

Thus, one skilled in the art would be clearly taught not to modify Walker to arrive at the claimed invention and not to combine Walker with any reference which would suggest such a modification.

Moreover, Egghead does not anticipate or render obvious Claim 1 as amended. Egghead discloses two pricing schemes, the first being a standard offer and acceptance scheme where the seller sets a price and the customer purchases the product at that price, and the second being a standard auction scheme where

users bid on items and after a time period the high bidder or bidders “win” the purchase of the product at their bids.

Thus, Egghead does not disclose, teach or suggest a pricing scheme where the immediate purchase price conditionally decreases over time. It should be noted that the Examiner implicitly recognized this fact in the outstanding Office Action by not rejecting Claim 4 (which requires a similar limitation) in view of Egghead either alone or in combination with any other reference. As such, Egghead would clearly not disclose, teach or suggest that a customer can request a deferred purchase when a user-defined deferred purchase price matches a decreased immediate purchase price.

Freeny discloses an automated product pricing system which includes a physical store system, a virtual store system, and a control system. The physical and virtual store systems are capable of transmitting sales data indicative of the number of sales of identified respective products. The control system is adapted to receive the sales data from the physical store system and the virtual store system. In response thereto, the control system generates price change data including a changed price of an identified product based on the sales data received from at least one of the physical and virtual store systems. The price change data is then transmitted by the control system to at least one of the

physical and virtual store systems to thereby change the price of the identified product. Thus, the product pricing system can dynamically change the price of a product depending on customer demand. For example, the price for a product may be set at \$10.00. If the product is selling quickly, the system may raise the price of the product to \$11.00. However, if the product is selling slowly, the system may lower the price of the product to \$9.00 to stimulate demand.

However, as with Walker, the deferred purchase price (i.e., the \$11.00 price or the \$9.00 price in the above example) of Freeny is set by the product pricing system. It is never set by the customer or user, as is required by all claims, as amended.

Moreover, it would not have been obvious to modify Freeny to arrive at the claimed invention, as doing so would completely defeat the main purpose thereof. The purpose of Freeny is to maximize the sales price of products (and therefore profits) by dynamically adjusting the price of the product based upon sales activity. Allowing the customer to specify a deferred lower future price would encourage the customer to gamble that a lower price will be offered. However, the price may ultimately never reach the lower specified price, and a sale which likely would have been made anyway would be lost. The pricing scheme of the present invention is therefore not practicable in a store setting for restockable goods (the

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setting with which Freeny is concerned), but rather is only practicable when it is desirable to liquidate an inventory of returned, overstocked, discontinued, etc. items.

Geiger is cited only for teaching that items may be sold in lots for a lot price. Geiger clearly does not disclose, teach or suggest a pricing scheme where the immediate purchase price conditionally decreases over time and/or that a customer can request a deferred purchase when a user-defined deferred purchase price matches a decreased immediate purchase price.

For the foregoing reasons, Applicants respectfully submit that all pending claims, namely Claims 1-30, are patentable over the references of record, and earnestly solicits allowance of the same.

Respectfully submitted,



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Clean Copy of Amended Claims

1. (Amended) A concurrent dynamic pricing marketing and sales system for providing buyer access to inventory items of a seller, comprising:
 - an inventory sales tool accessible to a plurality of buyers through at least one medium;
 - said inventory sales tool being effective to provide an indication of an available quantity of an item and a plurality of pricing schemes;
 - at least one of said pricing schemes permits at least one of said buyers to request an immediate purchase at an immediate purchase price;
 - wherein said immediate purchase price conditionally decreases over time;
 - and at least another of said pricing schemes permits said at least one of said buyers to request a deferred purchase when a user-defined deferred purchase price matches a decreased immediate purchase price.

15. (Amended) A marketing system according to claim 1, wherein a sell sets a minimum immediate purchase price.

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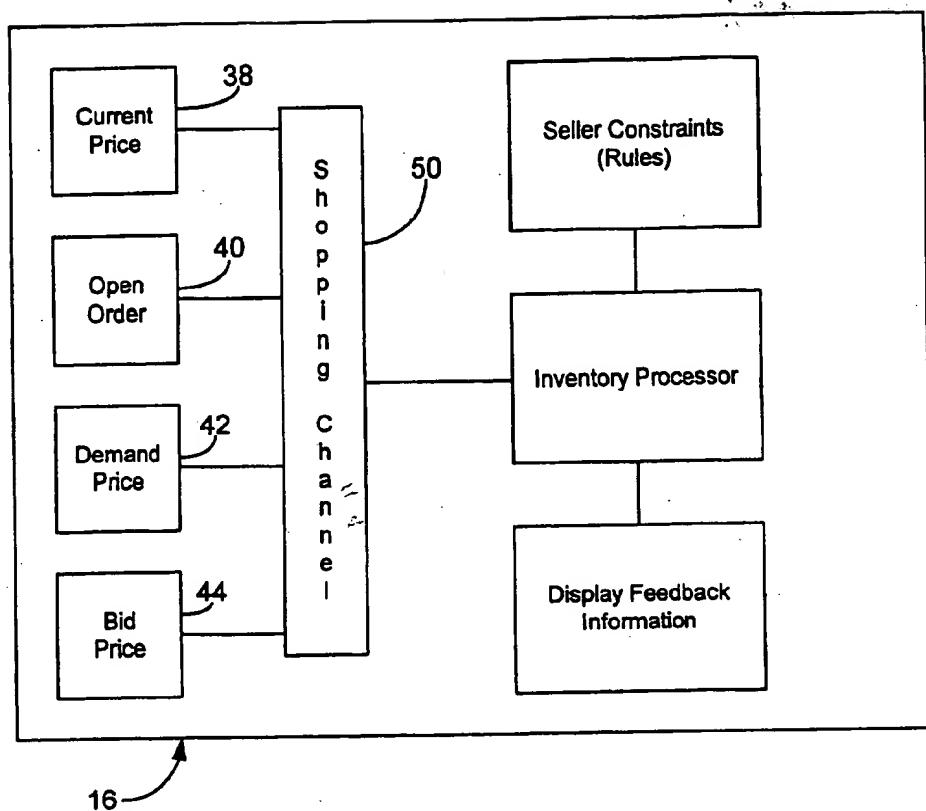


Fig. 2

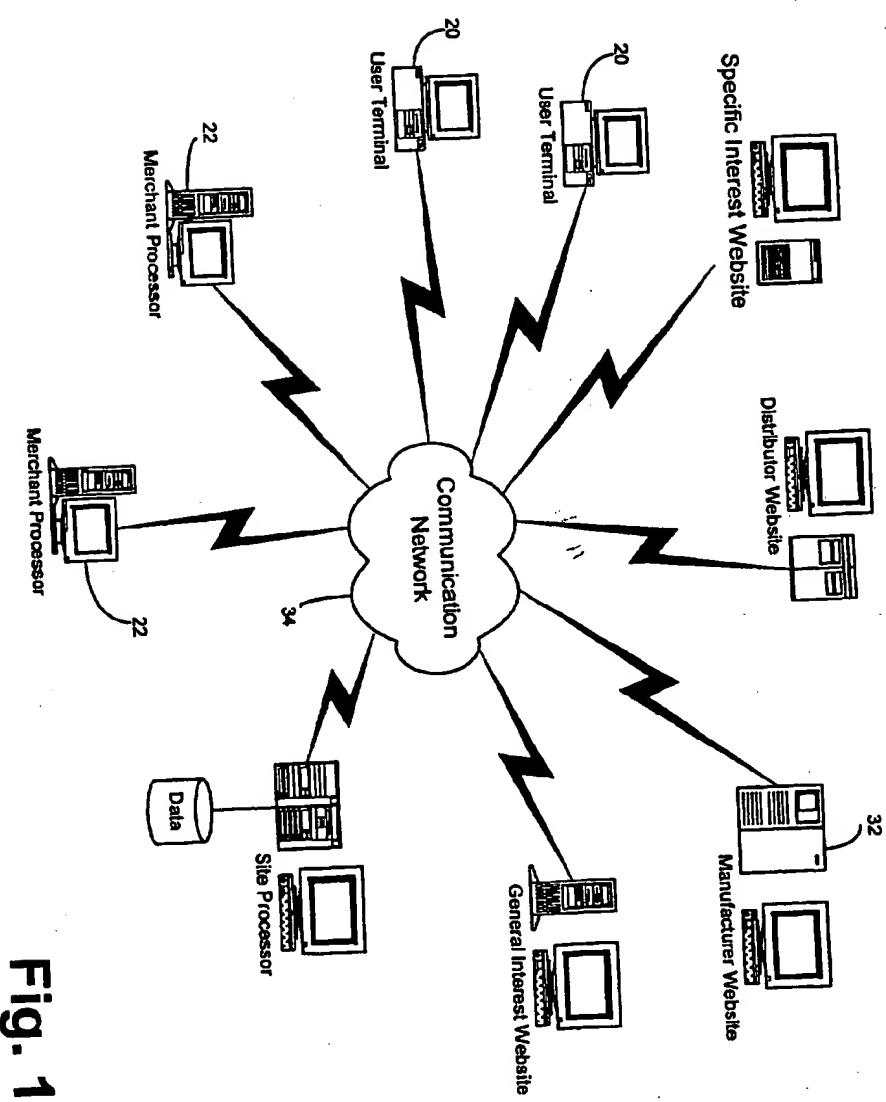


Fig. 1